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In re Patent No. 6,740,133

Issue Date: May 25, 2004

Application No. 09/757,765

Filed: January 10, 2001

Attorney Docket No. P09522US00/BAS

ON PETITION

This is regarding the "Request for Issuance of Certificate of Correction for Patent" filed June 8, 2009, which is being treated as a request under 37 CFR 3.81(b)<sup>1</sup> to correct the assignee data on the front page of the above-identified patent and other errors by way of a Certificate of Correction.

The request is **dismissed**.

Petitioner requests that a Certificate of Correction be issued so as to remove "Clean Fuel Technologies, L.L.C" as an assignee on the above-cited patent. Section 1481 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

Mistakes in a patent which are not correctable by Certificate of Correction may be correctable via filing a reissue application (see MPEP § 1401 - § 1460). See *Novo Industries, L.P. v. Micro Molds Corporation*, 350 F.3d 1348, 69 USPQ2d 1128 (Fed. Cir. 2003) (The Federal Circuit stated that when Congress in 1952 defined USPTO authority to make corrections with prospective effect, it did not deny correction authority to the district courts. A court, however, can correct only if "(1) the correction is not subject to reasonable debate based on consideration of the claim language and the specification and (2) the prosecution history does not suggest a different interpretation...").

*In re Arnott*, 19 USPQ2d 1049, 1052 (Comm'r Pat. 1991) specifies the criteria of 35 U.S.C. 255 (for a Certificate of Correction) as follows:

Two separate statutory requirements must be met before a Certificate of Correction for an applicant's mistake may issue. The first statutory requirement concerns the nature, i.e., type, of the mistake for which a correction is sought. The mistake must be:

- (1) of a clerical nature,
- (2) of a typographical nature, or
- (3) a mistake of minor character.

<sup>1</sup> See *Official Gazette* of June 22, 2004.

The second statutory requirement concerns the nature of the proposed correction. The correction must not involve changes which would:

- (1) constitute new matter or
- (2) require reexamination.

If the above criteria are not satisfied, then a Certificate of Correction for an applicant's mistake will not issue, and reissue must be employed as the vehicle to "correct" the patent. Usually, any mistake affecting claim scope must be corrected by reissue.

A mistake is not considered to be of the "minor" character required for the issuance of a Certificate of Correction if the requested change would materially affect the scope or meaning of the patent. See also MPEP § 1412.04 as to correction of inventorship via certificate of correction or reissue.

It is noted that no assignment to Clean Fuel Technologies, L.L.C. is of record with the USPTO. However, petitioner has not established that the inclusion of Clean Fuel Technologies, L.L.C. as the assignee for the subject patent was a clerical or typographical that occurred in completing the issue fee transmittal sheet or some other clerical error. Neither has petitioner indicated that removing Clean Fuel Technologies, L.L.C. as an assignee would not constitute new matter or require reexamination.


Petitioner may file a renewed petition that established that the inclusion of Clean Fuel Technologies, L.L.C. as the assignee for the patent was a clerical or typographical error the correction of which would not constitute new matter or require reexamination.

Further communications regarding this request may directed as follows:.

By mail:                      Mail Stop Petitions  
                                    Commissioner for Patents  
                                    P.O. Box 1450  
                                    Alexandria, VA 22313-1450

By FAX:                      (571) 272-8300  
                                    Attn: Office of Petitions

Questions regarding this decision may be directed to the undersigned at (571)272-3222.

  
Kenya A. McLaughlin  
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Office of Petitions